



**CALIFORNIA STATE PERSONNEL BOARD**

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ARNOLD SCHWARZENEGGER, Governor



**CALIFORNIA STATE PERSONNEL BOARD MEETING<sup>1</sup>**

801 Capitol Mall  
Sacramento, California

Public Session Location –

California Science Center  
Exposition Park  
700 State Drive  
Los Angeles, California 90037

Closed Session Location –

California Science Center  
Exposition Park  
700 State Drive  
Los Angeles, California 90037

**SUMMARY MINUTES - APRIL 5-6, 2005**

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<sup>1</sup> Sign Language Interpreter would have been provided for Board Meeting upon request - contact Secretariat at (916) 653-0429, or CALNET 453-0429, TDD (916) 654-2360.

## **FULL BOARD MEETING MINUTES<sup>2</sup>**

### **DAY ONE – APRIL 5, 2005**

#### **1. ROLL CALL**

##### **Members Present:**

**William Elkins, President**  
**Maeley Tom, Vice President**  
**Ron Alvarado, Member**  
**Sean Harrigan, Member**  
**Anne Sheehan, Member**

#### **2. REPORT OF THE EXECUTIVE OFFICER - Floyd D. Shimomura**

- The Department of Education has awarded the hearing officer/mediation contract involving special education to the Office of Administrative Hearings (OAH). OAH submitted a significantly lower bid than UOP's McGeorge School of Law, the current holder of the contract. This award is consistent with the Board's ruling that the work could be performed within the state civil service and should be moved away from McGeorge as soon as practicable.
- Cooperative Personnel Services (CPS) voted to acquire a software company after changing the transaction from a "stock purchase" to an "asset purchase" deal. The change was in response to concerns raised by the SPB and the Attorney General's Office.
- The CPR reorganization process is continuing - albeit at a slower and more deliberate pace. It is our understanding that the merger of HR resources into a single human resources agency is under consideration but not likely to occur until later this year.
- The June meeting will be held in Sacramento due to the difficulty of booking accommodations during the graduation/vacation season in San Diego. This also permits us to schedule a reception in recognition of the 50th Anniversary of the SPB building and to showcase our new ALJ hearing rooms being constructed in the west wing of the first floor.

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<sup>2</sup> The Minutes for the Board can be obtained at the following internet address:  
<http://www.spb.ca.gov/calendar.htm>

**3. REPORT ON THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS) – Ron Alvarado**

- April 11, 2005 - meeting in San Jose
- April 18, 2005 – regularly scheduled meeting

**4. REPORT OF THE CHIEF COUNSEL - Elise Rose**

- SEIU v. State Personnel Board This is a new suit contending that non-testing classifications violate Article VII on the constitution that requires selection and promotion to be based on competitive examinations.
- CASE challenge to Dept. of Education contract with McGeorge School of Law. The new contract for services has been awarded to the Office of Administrative Hearings. The McGeorge School of Law is expected to file a bid protest.
- The ALJ Conference is scheduled for the last week in April. ALJ Mel Segal is retiring at the end of April.

**5. NEW BUSINESS**

**NONE**

**6. REPORT ON LEGISLATION – Elise Rose for Sherry Hicks**

- AB 124 made it out of appropriations.
- SB 165 was heard in first committee and got out as well with some amendments.
- Board will be asked to take positions on AB 195 and AB 1066.
- AB 297 will be heard on 4/6/05.
- AB 271 will be heard in Assembly PERS Committee on 4/6/05.

**7. DELIBERATION ON ADVERSE ACTION, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES**

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by Administrative Law Judges of the State Personnel Board

or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

**8. PENDING LITIGATION**

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial. [Government Code sections 11126(e)(1) and 18653.]

State Personnel Board v. Department of Personnel Administration,  
California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association,  
California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court  
Case No. S125502.

International Union of Operating Engineers v. State Personnel Board,  
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

State Compensation Ins. Fund v. State Personnel Board/CSEA,  
Sacramento Superior Court No. 04CS00049.

**9. RECOMMENDATIONS TO THE LEGISLATURE**

Deliberations on recommendations to the legislature.  
[Government Code section 18653.]

**10. RECOMMENDATIONS TO THE GOVERNOR**

Deliberations on recommendations to the Governor. [Government Code section 18653.]

**11. ORAL ARGUMENT**

Oral argument in the matter of **ERNEST J. DURAN, CASE NO. 04-0853A.**  
Appeal from demotion. Special Agent in Charge. Department of Justice.

Persons participating:

David M. Tiede, representing the Department of Justice  
Adam J. Krolikowski, representing the appellant

**12. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF APRIL 19, 2005, IN SACRAMENTO, CALIFORNIA**

13. **ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES**
14. **EVIDENTIARY CASES** - (See Case Listing on pages 13 - 20)
15. **NON-EVIDENTIARY CASES** - (See Case Listing on pages 20 - 23)
16. **PERFORMANCE MEASUREMENT –Denzil Verardo/Pete Williams/ Mary Fernandez**

The California Performance Review recommended that the State adopt a performance management system. Denzil Verardo presented the background of strategic planning and performance measurement in the State of California and, in particular, his experiences at the California Department of Parks. Pete Williams gave a detailed description of performance measurement, including definitions of inputs, processes, outputs and outcomes. His presentation described the advantages in using a performance measurement, such as improved public accountability, improved decision making and that fact that 'what gets measured gets done.' Mary Fernandez presented two points for discussion: 1) As a pilot effort, SPB should consider modeling these concepts by developing a strategic plan and performance measures with DPA for the new consolidated department; and 2) SPB should consider establishing a Strategic Planning and Performance Measurement training and advisory program at the SPB to assist interested State departments.

Persons participating:

Mary Fernandez, Chief, Administrative Services Division, State Personnel Board  
Denzil Verardo, California Performance Review  
Pete Williams, California Performance Review

## **A D J O U R N M E N T**

**FULL BOARD MINUTES<sup>3</sup>**

**DAY TWO – APRIL 6, 2005**

**1. ROLL CALL**

**Members Present:**

**William Elkins, President**  
**Maeley Tom, Vice President**  
**Ron Alvarado, Member**  
**Sean Harrigan, Member**  
**Anne Sheehan, Member**

**2. THE CALIFORNIA PERFORMANCE REVIEW (CPR) UPDATE –  
Floyd D. Shimomura**

Representatives of the State Personnel Board further discussed the consolidation of the State Personnel Board and the Department of Personnel Administration. In addition, representatives of the State Personnel Board discussed the Department of Personnel Administration's delegation of many personnel management functions to departments effective April 1, 2005.

Persons participating:

Floyd D. Shimomura, Executive Officer, State Personnel Board  
Mary Fernandez, Chief, Administrative Services Division, State Personnel Board

**3. ORAL ARGUMENT**

Oral argument in the matter of **ANTHONY VEGAS, CASE NO. 03-2204A**. Appeal from dismissal. Parole Agent 1 (Adult Parole). Department of Corrections – Stockton.

Persons participating:

Joe Barbara, representing the Department of Corrections  
Steve Bassoff, representing the appellant

**4. NON-HEARING CALENDAR - (See Minutes – Page 10)**

**5. STAFF CALENDAR ITEMS FOR BOARD INFORMATION - (See Minutes –  
Page 10)**

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<sup>3</sup> The Minutes for the Board can be obtained at the following internet address:  
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6. **CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY -**  
(See Minutes - Pages 10 - 12)
7. **EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS -** (See Minutes - Page 12)

**NONE**

8. **WRITTEN STAFF REPORT FOR BOARD INFORMATION –**  
(See Minutes - Page 12)

**NONE**

9. **PRESENTATION OF EMERGENCY ITEMS AS NECESSARY –**  
(See Minutes - Page 12)

**NONE**

10. **BOARD ACTIONS -** (See Minutes – Pages 8 - 9)

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on this agenda under Evidentiary Cases.

11. **RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION -** (See Minutes - Page 25)

12. **PSC NO. 04-06 – CALIFORNIA REGIONAL WATER CONTROL BOARD AND THE CITY OF GLENDALE**

Appeal of the California Regional Water Quality Control Board (RWQCB) from the Executive Officer's October 27, 2004 Disapproval of a Contract with the City of Glendale (Glendale) Reviewed at the Request of the California Association of Professional Scientists (CAPS).

Persons participating:

Gerald James, representing the California Association of Professional Scientist  
David Bacharowski, representing the City of Glendale  
Jon Bishop, representing the City of Glendale  
Robert Sams, representing the City of Glendale

**ADJOURNMENT**

**SUBMITTED**

1. **TEACHER STATE HOSPITAL (SEVERELY), ETC.**  
Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)  
**No Action**
2. **VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)**  
Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)  
**No Action**
3. **TELEVISION SPECIALIST (SAFETY)**  
The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Hearing held March 4, 2003.)  
**No Action**
4. **HEARING - PSC #04-03**  
Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)  
**No Action**
5. **HEARING**  
Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)  
**No Action**
6. **HEARING - PSC #04-04**  
Appeal of the Secretary of State from the Executive Officer's October 15, 2004 disapproval of SOS's contract with Renne & Holtzman Public Law Group upon the review request submitted by the California Attorneys, Administrative Law Judge (Hearing held on March 9, 2005.)  
**No Action**



**7. HEARING - PSC NO. 04-06**

Appeal of the California Regional Water Quality Control Board (RWQCB) from the Executive Officer's October 27, 2004 Disapproval of a Contract with the City of Glendale (Glendale) Reviewed at the Request of the California Association of Professional Scientists (CAPS).

**ACTION: Submitted**

**4. NON-HEARING CALENDAR**

Proposals would have been made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

**NONE**

**5. STAFF CALENDAR ITEMS FOR BOARD INFORMATION**

**NONE**

**6. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY**

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Merit Employment and Technical Resources Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and it is approved by the State Personnel Board, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

**A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION**

**DEPUTY DIRECTOR**

The Department of Boating and Waterways proposes to allocate the above position to the CEA category. The Deputy Director formulates and implements department-wide policies affecting California's waterways.

**PROGRAM MANAGER, OFFICE OF TECHNOLOGY RESOURCES,  
ENTERPRISE RESOURCE PLANNING PROGRAM**

The Department of General Services proposes to allocate the above position to the CEA category. The Program Manager, Office of Technology Resources, Enterprise Resource Planning Program is responsible for providing leadership, project planning, and oversight for the statewide e-Procurement and Fleet Management initiatives.

**CHIEF, APPLICATIONS DEVELOPMENT AND DATA CENTER  
DIVISION, INFORMATION TECHNOLOGY BRANCH**

The California Public Employees' Retirement System (CalPERS) proposes to allocate the above position to the CEA category. The Chief, Applications Development and Data Center Division, Information Technology Services Branch oversees the activities of the Application Development and Support Section, and the Data Center, a full functioning computer facility, within the Application Development and Data Center Division.

**ACTION: Noted**

**B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO  
ESTABLISH NEW CEA POSITIONS**

**DEPUTY DIRECTOR, POLICY AND PROGRAM OPERATIONS**

The Employment Development Department's (EDD) request on behalf of the Employment Training Panel (EPT) to allocate the above position to the CEA category has been approved effective February 24, 2005.

**EXECUTIVE CONSOLIDATION OFFICER, CONSOLIDATION  
MANAGEMENT PROGRAM, CONSOLIDATION MANAGEMENT OFFICE**

The Stephen P. Teale Data Center's request to allocate the above position (originally proposed to be titled Program Manager, Consolidation Management Office) to the CEA category has been approved effective February 24, 2005.

**ACTION: Noted**

**7. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

- 8. WRITTEN STAFF REPORT FOR BOARD INFORMATION**
- 9. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY**
- 10. BOARD ACTIONS - (See Minutes – Pages 8 - 9)**

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on this agenda under Evidentiary Cases.

- 11. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION - (See Agenda - Page 25)**

#### 14. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

##### A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting.

On April 6, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan - Aye

(1) **JOHN A. CRUZ, CASE NO. 04-1376A**

Appeal from 60-calendar-days suspension

**CLASSIFICATION:** Automotive Equipment Operator I

**DEPARTMENT:** California Department of Veterans Affairs

**ACTION:** The Board modified the 60 days suspension to a Letter of Reprimand.

(2) **NESSLIN CRUZ, CASE NO. 03-1854A**

Appeal from ten-work-days suspension

**CLASSIFICATION:** Employment Program

Representative (Permanent/Intermittent)

**DEPARTMENT:** Employment Development Department

**ACTION:** The Board modified the 10 working days suspension to a 5 working days suspension.

(3) **HAJI JAMEEL, CASE NO. 04-0330A**

Appeal from dismissal

**CLASSIFICATION:** Supervising Transportation Engineer

**DEPARTMENT:** California Public Utilities Commission

**ACTION:** The Board issued a precedential decision modifying the dismissal to 3 months suspension.

(4) **JOE W. JORDAN, CASE NO. 04-0393A**

Appeal from dismissal

**CLASSIFICATION:** Youth Correctional Counselor

**DEPARTMENT:** California Youth Authority

**ACTION:** The Board modified the dismissal to 30 days suspension.

- (5) **SAMUEL SWEENEY, CASE NO. 04-0794A**  
Appeal from 20-calendar-days suspension  
**CLASSIFICATION:** Correctional Officer  
California Institution for Men – Chico  
**DEPARTMENT:** Department of Corrections  
**ACTION:** The Board revoked the 20 days suspension.
- (6) **DON DOWLING, CASE NO. 04-1482A**  
**AND**  
**ROGER HANSEN, CASE NO. 04-1523A**  
Appeals from dismissal  
**CLASSIFICATION:** Police Officers I  
**DEPARTMENT:** Department of Developmental Services  
**ACTION:** The Board modified the dismissal to 6 months suspension.

**B. CASES PENDING**

**ORAL ARGUMENTS**

These cases were on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

On April 6, 2005, the Board adopted as indicated below the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

Vote: Elkins, Tom, Alvarado, Harrigan, Sheehan - Aye

- (1) **ERNEST J. DURAN, CASE NO. 04-0853A**  
Appeal from demotion  
**CLASSIFICATION:** Special Agent in charge  
**DEPARTMENT:** Department of Justice  
**ACTION:** The Board adopted the ALJ's decision modifying the demotion to a one year demotion.
- (2) **ANTHONY VEGAS, CASE NO. 03-2204A**  
Appeal from dismissal  
**CLASSIFICATION:** Parole Agent 1 (Adult Parole)  
**DEPARTMENT:** Department of Corrections - Stockton  
**ACTION:** The Board adopted the ALJ's decision sustaining the dismissal.

**C. CHIEF COUNSEL RESOLUTIONS**

**NONE**

**COURT REMANDS**

This case has been remanded to the Board by the court for further Board action.

**NONE**

**STIPULATIONS**

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

**NONE**

**D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS**

**PROPOSED DECISIONS**

These were ALJ proposed decisions submitted to the Board for the first time.

On April 6, 2005, the Board adopted as indicated below the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

Vote: Elkins, Tom, Alvarado, Harrigan, Sheehan - Aye

**(1) CHRISTOPHER ANTONIO, CASE NO. 04-1790**

Appeal from dismissal

**CLASSIFICATION:** Foundation Driller

**DEPARTMENT:** Department of Transportation

**ACTION:** The Board adopted the ALJ's proposed decision sustaining the dismissal without modification.

**(2) FRANK BRASWELL, CASE NO. 04-2459**

Appeal from five percent reduction in salary for twelve months

**CLASSIFICATION:** Correctional Officer

**DEPARTMENT:** Department of Corrections

**ACTION:** The Board adopted the ALJ's proposed decision revoking the five percent reduction in salary for twelve months.

- (3) **GARY GARFINKLE, CASE NO. 98-3128R**  
Appeal from dismissal  
**CLASSIFICATION:** Deputy Attorney General IV  
**DEPARTMENT:** Department of Justice  
**ACTION:** The Board adopted the ALJ's proposed decision sustaining the dismissal.
- (4) **MARIANNE HAAS, CASE NO. 04-2624E**  
Appeal from denial of reasonable accommodation  
**CLASSIFICATION:** Senior Vocational Rehabilitation Counselor  
**DEPARTMENT:** Department of Rehabilitation  
**ACTION:** The Board adopted the ALJ's proposed decision denying the appeal for reasonable accommodation.
- (5) **MICHAEL MORGAN, CASE NO. 04-2147**  
Appeal from suspension for ten work days.  
**CLASSIFICATION:** Lieutenant (CHP)  
**DEPARTMENT:** California Highway Patrol  
**ACTION:** The Board adopted the ALJ's proposed decision reducing the suspension to five work days.
- (6) **JOE P. WEBER III, CASE NO. 04-0365**  
Appeal from suspension for ten work days.  
**CLASSIFICATION:** Transportation Engineering Technician  
**DEPARTMENT:** Department of Transportation, Personnel, DSB  
**ACTION:** The Board remanded the case to the ALJ.

**Proposed Decisions Taken Under Submission At Prior Meeting**

These were ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

**NONE**

**PROPOSED DECISIONS AFTER BOARD REMAND**

**NONE**

**PROPOSED DECISIONS AFTER SPB ARBITRATION**

**NONE**



**E. PETITIONS FOR REHEARING**

**ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD**

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

On April 6, 2005, the Board adopted as indicated below the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

Vote: Elkins, Tom, Alvarado, Harrigan, Sheehan - Aye

**(1) ESTHER CHODAKIEWITZ, CASE NO. 04-1151EP**

Appeal from denial of discrimination, retaliation, whistleblower complaint

**CLASSIFICATION:** Staff Psychiatrist, CF

**DEPARTMENT:** Department of Corrections

**ACTION:** The Board denied the Petition for Rehearing filed by the appellant.

**WHISTLEBLOWER NOTICE OF FINDINGS**

The Board would have voted to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

**NONE**

**F. PENDING BOARD REVIEW**

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

On April 6, 2005, the Board adopted as indicated below the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

Vote: Elkins, Tom, Alvarado, Harrigan, Sheehan - Aye

- (1) **JACOB ARIS, CASE NO. 04-1378E AND  
NICHOLAS RUTHART, CASE NO. 04-1409E**  
Appeal from discrimination complaint  
**CLASSIFICATION:** Employment Program Representatives  
**DEPARTMENT:** Employment Development Department

Proposed decision rejected January 25, 2005  
Transcripts ordered  
**No Action**
- (2) **PATRICK BARBER, CASE NO. 04-0279**  
Appeal from dismissal  
**CLASSIFICATION:** Youth Correctional Officer  
**DEPARTMENT:** Department of Youth Authority

Decision adopted November 3, 2004  
Modifying dismissal to 45-calendar day suspension  
Petition for Rehearing granted February 8-9, 2005  
Transcripts ordered  
**No Action**
- (3) **DAVID BARTON, CASE NO. 04-1434**  
Appeal from dismissal  
**CLASSIFICATION:** Associate Hazardous Materials Specialist  
Wasco State Prison - Wasco  
**DEPARTMENT:** Department of Corrections

Proposed decision rejected January 11, 2005  
Transcripts received  
Pending oral argument May 3-4, 2005, Sacramento  
**No Action**
- (4) **CLETUS CURAH, CASE NO. 04-2146**  
Appeal from dismissal  
**CLASSIFICATION:** Transportation Engineer  
**DEPARTMENT:** Department of Transportation

Proposed decision rejected March 8-9, 2005  
Pending transcripts  
**No Action**

**(5) ERNEST J. DURAN, CASE NO. 04-0853**

Appeal from demotion

**CLASSIFICATION:** Special Agent in Charge

**DEPARTMENT:** Department of Justice

Proposed decision rejected January 11, 2005

Transcripts prepared

Pending oral argument April 5-6, 2005, Los Angeles

**ACTION:** The Board adopted the ALJ's decision modifying the demotion to a one year demotion.

**(6) CHAD LOOK, CASE NO. 04-1789**

Appeal from 60-work-days suspension

Correctional Officer

**CLASSIFICATION:** Wasco State Prison – Wasco

**DEPARTMENT:** Department of Corrections

Proposed decision rejected January 11, 2005

Transcripts received

Pending oral argument May 3-4, 2005, Sacramento

**No Action**

**(7) KIM RITTENHOUSE, CASE NOS. 03-3541A & 03-3542E**

Appeal from denial of reasonable accommodation  
and from constructive medical termination

**CLASSIFICATION:** Office Technician (General)

**DEPARTMENT:** Department of Fish and Game

Proposed decision rejected May 18, 2004

Pending transcripts

**No Action**

**(8) DARYL STONE, CASE NO. 04-0279**

Appeal from dismissal

**CLASSIFICATION:** Police Officer I

**DEPARTMENT:** Department of Developmental Services

Proposed decision rejected February 8, 2005

Proposed decision rejected on February 8, 2005

Transcripts ordered

**No Action**

**(9) ANTHONY VEGAS, Case No. 03-2204A**

Appeal from dismissal

**CLASSIFICATION:** Parole Agent I (Adult Parole)

**DEPARTMENT:** Department of Corrections - Stockton

Proposed decision rejected November 3, 2004

Transcripts ordered

Pending oral argument April 5-6, 2005, Los Angeles

**ACTION:** The Board adopted the ALJ's decision modifying the dismissal to 16 months suspension.

**(10) ANNA WONG, Case Nos. 04-1490P, 04-1490PA, 04-1490PD**

Appeal from Whistleblower complaint

**CLASSIFICATION:** Public Health Microbiologist II

**DEPARTMENT:** Department of Health Services

Petition for rehearing granted March 22, 2005

Pending transcripts

**No Action**

**15. NON-EVIDENTIARY CASES**

**A. WITHHOLD APPEALS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board was presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

**WITHHOLD FROM CERTIFICATION**  
**CASES HEARD BY A STAFF HEARING OFFICER**

**NONE**

**WITHHOLD FROM CERTIFICATION**  
**CASES NOT HEARD BY A STAFF HEARING OFFICER**

On April 6, 2005, the Board adopted as indicated below the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.

Vote: Elkins, Tom, Alvarado, Harrigan, Sheehan - Aye

Vice President Maeley Tom recused herself from CASES (5) 04-1823 and (6) 04-1744.

- (1) **PHILLIP BOONE, CASE NO. 04-1311**  
**CLASSIFICATION:** Correctional Officer  
**DEPARTMENT:** Corrections  
**ISSUE:** Suitability; firearm prohibition  
**ACTION:** The Board adopted the Staff's recommended decision granting the appeal.
- (2) **URSULA COBIA, CASE NO. 04-0542**  
**CLASSIFICATION:** Youth Correctional Officer  
**DEPARTMENT:** Youth Authority  
**ISSUE:** Suitability; furnished inaccurate information and omitted pertinent information during the selection process, failure to comply with legal obligations and negative employment record.  
**ACTION:** The Board adopted the Staff's recommended decision denying the appeal.
- (3) **ENRIQUE GARCIA, CASE NO. 04-1097**  
**CLASSIFICATION:** Correctional Officer  
**DEPARTMENT:** Corrections  
**ISSUE:** Suitability; furnished inaccurate information, and had negative driving and employment record.  
**ACTION:** The Board adopted the Staff's recommended decision denying the appeal.
- (4) **JANN GUTIERREZ, CASE NO. 04-1765**  
**CLASSIFICATION:** Correctional Officer  
**DEPARTMENT:** Corrections  
**ISSUE:** Suitability and furnished inaccurate information.  
**ACTION:** The Board adopted the Staff's recommended decision denying the appeal.
- (5) **JULIO MARTINEZ, CASE NO. 04-1823**  
**CLASSIFICATION:** Correctional Officer  
**DEPARTMENT:** Corrections  
**ISSUE:** Suitability; omitted pertinent information and furnished inaccurate information.  
**ACTION:** The Board adopted the Staff's recommended decision denying the appeal.

- (6) **JULIO MARTINEZ, CASE NO. 04-1744**  
**CLASSIFICATION:** Correctional Officer  
**DEPARTMENT:** Corrections  
**ISSUE:** Suitability; furnishing inaccurate information and negative law enforcement contacts.  
**ACTION:** The Board adopted the Staff's recommended decision denying the appeal.
- (7) **KARYN SOMERFIELD, CASE NO. 04-1989**  
**CLASSIFICATION:** Correctional Officer  
**DEPARTMENT:** Corrections  
**ISSUE:** Suitability; omitted pertinent information and furnished inaccurate information.  
**ACTION:** The Board adopted the Staff's recommended decision denying the appeal.

**B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS**

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board would have been presented recommendations by a Hearing Panel on each appeal.

**NONE**

**C. EXAMINATION APPEALS  
MINIMUM QUALIFICATIONS  
MERIT ISSUE COMPLAINTS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board would have been presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

**EXAMINATION APPEALS**

**NONE**

**MINIMUM QUALIFICATIONS**

**NONE**

**MERIT ISSUE COMPLAINTS**

**NONE**

**D. RULE 211 APPEALS  
RULE 212 OUT OF CLASS APPEALS  
VOIDED APPOINTMENT APPEALS**

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board would have been presented recommendations by a Staff Hearing Officer for final decision on each appeal.

**NONE**

**E. REQUEST TO FILE CHARGES CASES**

Investigated by Appeals Division staff. The Board would have been presented recommendations by Appeals Division staff for final decision on each request.

**NONE**

**PETITIONS FOR REHEARING CASES**

On April 6, 2005, the Board adopted as indicated below the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.

Vote: Elkins, Tom, Alvarado, Harrigan, Sheehan - Aye

- (1) PATRICK COLOCHO, CASE NO. 03-3435P**  
**CLASSIFICATION:** Caltrans Equipment Operator II  
**DEPARTMENT:** Department of Transportation  
**ISSUE:** Whether SPB erred in determining appellant received disparate treatment and could be hired to the position prior to receiving confirmation of passing a drug/alcohol-screening test.  
**ACTION:** The Board denied the appellant's Request for Rehearing.

**F. PSYCHOLOGICAL SCREENING CASES**

Cases reviewed by Appeals Division staff, but no hearing was held. It was anticipated that the Board would have acted on these proposals without a hearing.

**NONE**

**NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.



**GOVERNMENT CODE SECTION 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

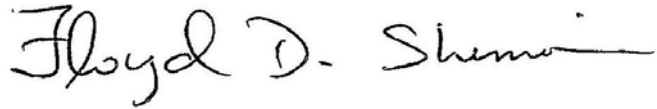
**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

\* \* \* \* \*

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on April 5-6, 2005.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

A handwritten signature in black ink, reading "Floyd D. Shimomura". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

FLOYD D. SHIMOMURA  
Executive Officer  
California State Personnel Board